

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: March 15, 2006

Division: County Attorney

Bulk Item: Yes xx No    

Department: County Attorney

Staff Contact Person: Bob Shillinger x3470

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**AGENDA ITEM WORDING:** Approval of contract with Ira Libanoff, Esq. to defend the County in *Tropex Construction Services, Inc. v. Monroe County*, 2006-CA-44-P.

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**ITEM BACKGROUND:** Tropex was the successful bidder to build the Tavernier Fire station. Prior to commencing work, Tropex walked off the job. In a pre-emptive move, Tropex filed a declaratory judgment action seeking a determination from the Court that it was justified in terminating its contract with the County. Tropex is also seeking damages for breach of contract.

Prior to the filing of the lawsuit, the County Attorney's office had been working with its outside construction counsel Ira Libanoff in developing the County's claim against Tropex and potentially its surety. The attached contract is the standard contract the County uses for outside litigation counsel. Mr. Libanoff bills at a rate of \$250.00 per hour. He has successfully represented the County in other construction matters.

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**PREVIOUS RELEVANT BOCC ACTION:** none

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**CONTRACT/AGREEMENT CHANGES:** n/a

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**STAFF RECOMMENDATIONS:** Approval.

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**TOTAL COST:** Estimated \$50,000.00

**BUDGETED:** Yes     No    

**COST TO COUNTY:** n/a

**SOURCE OF FUNDS:** n/a

**REVENUE PRODUCING:** Yes     No xx

**AMOUNT PER MONTH** n/a **Year** n/a

**APPROVED BY:** County Atty xx OMB/Purchasing     Risk Management    

**DIVISION DIRECTOR APPROVAL:**

  
Suzanne A. Hutton, Interim County Attorney

**DOCUMENTATION:** Included xx Not Required    

**DISPOSITION:**    

**AGENDA ITEM #**

# FERENCIK LIBANOFF BRANDT BUSTAMANTE AND WILLIAMS

PROFESSIONAL ASSOCIATION

ROBERT E. FERENCIK, JR.  
IRA L. LIBANOFF  
ALAN C. (PETER) BRANDT, JR.  
NESTOR BUSTAMANTE, III  
ALEXANDER J. WILLIAMS, JR.  
JORDANA L. GOLDSTEIN  
SANDRA D. KENNEDY

GAVIN D. CADDY  
LISA K. NORTH  
LORI R. SHAPIRO  
JASON L. MOLDER  
ROBERT A. CEDENO

JANET E. RITENBAUGH, Of Counsel

ATTORNEYS AT LAW

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February 27, 2006

Robert Schillinger, Esquire  
Monroe County Attorneys' Office  
502 Whitehead Street  
Third Floor, Rear  
Key West, FL 33040

Re: Tavernier – Monroe County Fire Station Project  
Tropex Construction  
Standard Legal Services Agreement

Dear Bob:

Enclosed please find the Standard Legal Services Agreement, which I have executed. Please forward a copy of the fully executed document to me once it has been signed by the proper County officials.

Thank you.

Sincerely,



Ira Libanoff

IL/mtm  
Enclosure

RECEIVED

FEB 28 2006

MONROE COUNTY ATTORNEY



1 **MONROE COUNTY, FLORIDA**  
2 **STANDARD LEGAL SERVICES AGREEMENT**  
3 **(LITIGATION)**  
4

**AGREEMENT NUMBER:**  
CAY LIT 2005 06 02

5 **THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA**, as the  
6 legislative and governing body of Monroe County, Florida, and in accordance with the powers  
7 enumerated in Section 125.01, Florida Statutes (the "County") and  
8 IRA L. LIBANOFF, ESQ. (the "Attorney") hereby  
9 enter into this Agreement regarding the retention of Attorney by County to provide legal advice and  
10 services:  
11

12 **1. Client:** The Client is the County, and to the extent ethically permissible, its elected and  
13 appointed officers and its' employees, unless County advises Attorney otherwise. In the event that  
14 Attorney cannot ethically represent individuals in addition to County, Attorney shall advise County  
15 in writing of that fact immediately.  
16

17 **2. Attorney:** The Attorney is the individual named above and whose signature appears at the  
18 bottom of this Agreement. Attorney is licensed to practice law in all jurisdictions relevant to this  
19 matter. If Attorney practices with others who may also provide services to County, he or she  
20 understands that County expects that Attorney will be responsible for managing the representation,  
21 assuring compliance of others with the terms of this Agreement and ethical requirements, preparing  
22 and substantiating all bills, and communicating with County. Attorney may not delegate or  
23 outsource this work without full written disclosure to, and prior written approval from, the County.  
24

25 **3. Matter:** Attorney has been retained by County in connection with the matter described in  
26 **Exhibit A.** Attorney represents that he or she is competent and available to handle that matter. In  
27 the event that additional matters are assigned by County to Attorney, this agreement shall apply to  
28 those matters as well, unless a separate Agreement is required by the County.  
29

30 **3.1. Review of ethical obligations before initiating representation:** Attorney has  
31 conducted a thorough investigation and determined that neither Attorney nor his or her firm has any  
32 ethical impediment, real or potential, to representing County. To the extent that any ethical  
33 impediment, real or potential, is discovered or ever arises, Attorney shall immediately inform  
34 County in writing of the impediment (regardless of whether Attorney believes he or she has taken  
35 all steps necessary to avoid the impediment and regardless of whether Attorney believes that the  
36 impediment is insubstantial or questionable), make full disclosure of the situation to County, obtain  
37 County's express, written consent to continue the representation of the other client, and take all steps  
38 requested by County to avoid or mitigate the impediment. Attorney understands that, if a direct or  
39 indirect conflict of interest arises which, in the opinion of the County, cannot be avoided or  
40 mitigated under the Rules of Professional Conduct of The Florida Bar, County may, in its discretion,  
41 (a) obtain reimbursement from Attorney for all fees and expenses paid to Attorney in this matter;  
42 (b) obtain cancellation of all amounts allegedly owed by County to Attorney; and (c) obtain  
43 reimbursement for consequential expenses incurred by County, including the cost of replacement  
44 counsel.  
45



1           **3.2. Limitations to scope of representation:** Except where prohibited by the Rules of  
2 Professional Conduct of The Florida Bar, the Monroe County Attorney's Office will serve as co-  
3 counsel in all matters covered by this Agreement. As co-counsel, the Office attorney's will assist  
4 Attorney by performing tasks assigned by Attorney, including but not limited to serving as local  
5 counsel; securing the cooperation of County employee's, officers, and others in discovery and other  
6 matters; obtaining evidentiary materials from County files; assisting with discovery; attending  
7 hearings and depositions; filing pleadings; arranging for closed attorney-client sessions with the  
8 Board of County Commissioners; and performing other tasks as necessary and convenient for  
9 Attorney. Decisions as to tactical approaches to be utilized shall be the ultimate responsibility of  
10 the Attorney, and issues which rise to the level of a client decision shall be resolved by the Board  
11 of County Commissioners. Any further limitations or special conditions shall be as set forth in  
12 **Exhibit A.**  
13

14           **3.3. Term of Agreement and Representation:** This Agreement and representation by  
15 Attorney is effective upon acceptance and approval by County in accordance with County's policies,  
16 ordinances, or governing statutes. The representation shall continue until terminated by either the  
17 County, or by the Attorney in accordance with ethical requirements.  
18

19           **3.4. County expectations and goals:** The County expects the Attorney to seek the best  
20 resolution for the County at the lowest reasonable cost to the taxpayers. At the earliest reasonable  
21 point during the representation, the Attorney shall report to the County, via the County Attorney,  
22 any reasonable potential for settlement, including related settlement costs and expenses, the  
23 estimated chances of the County prevailing on the merits, and the potential financial exposure  
24 should the County not prevail on the merits. Any other expectations and goals shall be as set forth  
25 in **Exhibit A.**  
26

27           **4. Attorney Fee (Hourly):** Attorney will be paid for his or her services based on the number  
28 of hours expended on behalf of County (rounded to the nearest tenth hour for each time entry), not  
29 to include time billable to or compensated by other clients, multiplied by the Attorney's hourly rate  
30 as set forth in **Exhibit A.** The following minimum billing documentation and time-keeper  
31 requirements are a condition precedent to payment by the County.  
32

33           **4.1. Non-billable time:** Attorney will bill County only for time reasonably and  
34 necessarily incurred to render professional services on County's behalf in accordance with this  
35 Agreement. Time attributable to billing questions is not billable. Time expended by time-keepers  
36 who have not been approved by County as indicated on **Exhibit A** is also not billable.  
37

38           **4.2. Changes to hourly rates:** Attorney will charge no more than the hourly rate quoted  
39 in **Exhibit A** throughout the duration of the matter, unless otherwise agreed in writing signed by  
40 County.  
41

42           **4.3. Discounts to other Clients:** The rates Attorney will charge County represent the  
43 lowest rates charged by the same time-keepers to other clients. In the event that lower rates or  
44 discounts are provided to other clients, Attorney and approved time-keepers will also provide them  
45 on the same basis to County.



1  
2       **4.4. Additional time-keepers:** Additional time-keepers may not be added to the matter  
3 without advance written approval from County. In the event that additional time-keepers providing  
4 services which are to be billed to the County are to be added to the staff, then their hourly rates shall  
5 be provided to County in advance, and, upon written approval by the County, their rates and billing  
6 practices shall comply with the requirements of this Agreement. Additional time-keepers approved  
7 by the County are listed in **Exhibit A** to this Agreement, and this **Exhibit A** may be amended from  
8 time to time, upon mutual agreement of the County and the Attorney, to evidence the then-current  
9 circumstances.

10  
11       **4.5. Existing work product:** To the extent the Attorney makes use of existing work  
12 product, e.g., in the form of research previously performed for another County, then Attorney may  
13 bill only that time expended in using that work product for County. In other words, no premium,  
14 markup, or other adjustment may be made to bill County for time spent on work already performed.

15  
16       **4.6. Travel:** Travel restrictions, including restrictions on billing time during travel, are  
17 set forth below.

18  
19       **5. Billing of Fees and Expenses:** Attorney shall comply with the following requirements as  
20 to billing fees and expenses as a condition precedent to County's obligation to pay each bill:

21  
22       **5.1. Monthly bills:** Unless otherwise agreed in a writing signed by the County, bills shall  
23 be issued monthly by Attorney within 15 days after the close of each month. Attorney understands  
24 that County requires prompt bills in part to facilitate effective management of the representation and  
25 fees.

26  
27       **5.2. Bill format:** Attorney shall provide detailed, itemized bills which shall, at a  
28 minimum:

29  
30       **5.2.1 Description.** Provide a general description of the matter, to include the name  
31 of the County department or constitutional officer, if not indicated in the title of the matter, for  
32 which legal services are being performed (e.g. Richard Roe v. Monroe County-EEO Claim).

33  
34  
35       **5.2.2 Personnel.** Clearly identify each person performing services (i.e., time-  
36 keepers) in conjunction with each entry.

37  
38       **5.2.3 Other Personnel.** Clearly identify all persons who are not full-time lawyers  
39 employed by the Attorney's firm (including subcontractors, independent contractors, temporary  
40 employees, and outsourcing providers).

41  
42       **5.2.4 Time Records.** Record the time expended by each time-keeper separately.  
43 In those situations where the minimum billing increment exceeds the actual time spent on a task and  
44 several of these "minor" tasks are performed, it is expected that the services will be aggregated until  
45 the total actual time spent meets the minimum billing increment.



1                   **5.2.5 Totals and By Task.** State the amount of time expended by each time-keeper  
2 daily (and, within each day, broken down by task where more than one project or task was worked  
3 upon within the same day).  
4

5                   **5.2.6 Task Description.** Describe within each itemized daily task entry, in sufficient  
6 detail to readily allow the County to determine the necessity for and reasonableness of the time  
7 expended, the services performed, the project or task each service relates to, the subject and purpose  
8 of each service, and the names of others who were present or communicated with in the course of  
9 performing the service. Included should be a reasonably specific delineation of services sufficiently  
10 itemized to allocate time within a matter to such categories of effort as Legal Research, Fact  
11 Gathering, Internal Conferences, Communications with Client, Particular Document Drafting, Court  
12 Appearance, Deposition Attendance, and so forth.  
13

14                   **5.2.7 Summary of Rates.** In a summary at the beginning or end of the bill, provide  
15 the current hourly rate for each time-keeper, the total time billed by each time-keeper in that bill,  
16 the product of the total time and hourly rate for each time-keeper, the total fees charged, and a  
17 reconciliation between the amount charged and any applicable estimated or budgeted amount, by  
18 task. In addition, each monthly statement should show the aggregate billing for that matter from the  
19 commencement of the matter through the currently-billed month.  
20

21                   **5.2.8 Digital/Electronic Copy.** County is currently using Time Matters and Time  
22 Billing software in the County Attorney's office, and prefers that an electronic reporting software  
23 which can be incorporated into the County's software data base for tracking and reporting purposes  
24 be used by Attorney. Attorney should discuss the capabilities of Attorney's billing system with  
25 County before rendering the first bill. County should receive a digital electronic/computerized  
26 version of each bill, together with a paper copy, to facilitate bill review.  
27

28                   **5.3. Expenses:** County will pay the actual, reasonable cost of the following expense  
29 items if incurred in accordance with the guidelines below and promptly itemized in Attorney's  
30 monthly bill:  
31

32                   **5.3.1 Reimbursable expenses:** Actual cost for necessary long distance telephone  
33 calls, telecopying at \$.25 per outgoing page, overnight or expedited delivery, couriers, photocopying  
34 at \$.15 per page, postage, court fees, and other expenses approved in advance by County or as listed  
35 below:  
36

37                   **5.3.1.1. Expedited or emergency services:** Attorney is expected to  
38 avoid using expedited or emergency services, such as express delivery services, couriers,  
39 telecopying, overtime, and so on, unless necessary because of unexpected developments or  
40 extremely short deadlines. County may refuse to pay for any such expenses when incurred routinely  
41 or because of Attorney's failure to manage the matter efficiently.  
42

43                   **5.3.1.2. Computerized research:** Attorney is expected to use  
44 computerized research services cost-effectively to reduce time spent on research, for example, while  
45 closely-monitoring computerized research to insure that the charges are reasonable and



1 necessary. Attorney is expected to pass through to County any discounts or other arrangements that  
2 reduce the cost of computerized services.

3  
4 **5.3.1.3. Photocopying:** Attorney is encouraged to use outside  
5 copying services to reduce the cost of large-volume copying, provided that these expenses are  
6 efficient, cost-effective, and incurred and billed in accordance with this Agreement. Attorney is  
7 responsible for insuring that all copying complies with copyright obligations.

8  
9 **5.3.1.4. Transcripts:** Transcripts should not be ordered without prior  
10 approval from County. Transcripts should not be ordered on an expedited basis unless necessary  
11 and approved in advance by County. Attorney should obtain digital electronic/computerized copies  
12 of transcripts when available at a reasonable cost to avoid charging for time spent digesting or  
13 indexing transcripts, and to allow County to maintain a digital electronic/computerized database of  
14 all transcripts.

15  
16 **5.3.1.5 Travel Expenses:** Travel expenses within the Attorney's  
17 local or metropolitan area will not be reimbursed if the time spent in transit is billed. Travel  
18 expenses outside the metropolitan area may only be reimbursed if the travel was approved in  
19 advance by County. Reimbursable travel expenses, if approved in advance, are the cost of  
20 transportation by the least expensive practicable means (e.g., coach class air travel), the cost of  
21 reasonable hotel accommodations, and the cost of transportation while out of town (e.g., by cab or  
22 rental car, whichever seems reasonable, at the lowest available rate). Travel expenses will be  
23 reimbursed in accordance with the applicable provisions for "approved travelers" of the Monroe  
24 County Code, will be summarized on the Monroe County Travel Form with all applicable receipts  
25 attached thereto.

26  
27 **5.3.1.6 Travel Time.** Time spent in transit, locally or otherwise, may  
28 be billed only if (a) Attorney or time-keeper is unable to avoid traveling by using other forms of  
29 communication and (b) Attorney or time-keeper is unable to bill time in transit to other clients.  
30 Travel by more than one time-keeper at the same time to the same destination is not allowed without  
31 prior approval from County. Approved travel time during time-keeper's normal business hours will  
32 be billed at the hourly rate listed for the time-keeper on **Exhibit A**. Approved travel time outside  
33 of time-keeper's normal business hour's will be billed at one-half the hourly rate listed for the time-  
34 keeper on **Exhibit A**.

35  
36 **5.3.2. Non-reimbursable expenses:** The following expenses will in no event be  
37 reimbursable, unless specifically agreed to in advance in a writing signed by County:

38  
39 **5.3.2.1. Personal and Office Costs.** Meals for time-keepers,  
40 overtime, word processing or computer charges, personal expenses, expenses that benefitted other  
41 clients, expenses for books, costs of temporary employees, periodicals or other library materials,  
42 internal filing or other document handling charges, clerical expenses, stationery and other supply  
43 expenses, utilities, and any other expense that is either unreasonable or unnecessary. (The fact that  
44 the firm charges other clients or that other firms charge their clients for an expense does not make  
45 it reasonable or necessary.)



1  
2                   **5.3.2.2. Experts, consultants, support services, outsourced**  
3 **services, etc.** Attorney is not authorized to retain experts, additional counsel, consultants, support  
4 services, or the like, or to out source or delegate work outside Attorney's law firm, without prior  
5 written approval by County. Attorney will be responsible for selecting and managing the services  
6 of others so that their services and expenses will be rendered in accordance with the terms of this  
7 Agreement, including terms applicable to Attorney. Attorney will manage others to obtain cost-  
8 effective services for County. Unless otherwise agreed in writing, Attorney shall obtain a written  
9 retainer agreement, in a form which may be specified by County, from each service provider, with  
10 bills from each provider being sent to both Attorney (for management purposes) and County (for  
11 review and payment).  
12

13                   **5.3.2.3. Expenses not passed through at actual cost.** County will  
14 not pay any markup for expenses. County will only reimburse the Attorney for their actual approved  
15 out-of-pocket costs and expenses, whether incurred personally by an approved time-keeper or  
16 incurred by other approved personnel (such as experts, consultants, support services personnel, or  
17 outsourced services personnel).  
18

19                   **5.3.2.4. Overhead not charged to County.** County will not pay for  
20 any "expense" items that are in fact part of Attorney's overhead which should be included within  
21 Attorney's fee.  
22

23                   **5.3.3. Advance approval of expenses.** In addition to the items noted above,  
24 Attorney shall obtain advance approval from County before incurring any expense in excess of \$  
25 1,000.00 if Attorney expects to be reimbursed for that expense. County may refuse to pay any  
26 expense for which advance approval was not obtained by Attorney.  
27

28                   **5.3.4. Copies of receipts for expenses.** Attorney shall include copies of receipts for  
29 all expenses with the itemized monthly bill. County may refuse to pay any expense item for which  
30 documentation is not provided by Attorney.  
31

32                   **5.3.5. Expenses (and fees) after termination.** Upon termination of the  
33 representation, Attorney shall promptly bill County for any remaining reimbursable expenses and  
34 fees. County may refuse to pay any fees or expenses not billed within 45 days of termination of the  
35 representation. Attorney is also expected to cooperate promptly with all aspects of termination and,  
36 if applicable, transition to other counsel. Payment for fees and expenses is contingent upon prompt,  
37 full cooperation.  
38

39                   **5.4. Bill and expense documentation.** Attorney understands that Attorney must have  
40 documentation to support all aspects of each bill, including fees and expenses, and must maintain  
41 that documentation until at least one year after the termination of the representation. This  
42 documentation shall be made available by Attorney to County (or County's designated  
43 representative, including an accountant, the County Clerk or County Clerk's representative, or legal  
44 bill auditor) upon County's written request. Attorney agrees to cooperate with any examination of  
45 this documentation and Attorney's fees and expenses, e.g., by responding promptly and completely



1 to any questions County or its designated representative may have. Attorney shall notify County  
2 in writing at least 60 days in advance of destroying any such records and, in the event that County  
3 requests that they be preserved, shall preserve them at least one additional year or, at the option of  
4 the County, delivered to the County for storage by the County, with County responsible for paying  
5 the actual cost of storage. This documentation shall include, for example, original time records,  
6 expense receipts, and documentation supporting the amount charged by Attorney for expense items  
7 generated by the Attorney or his or her firm. County reserves the right not to pay any fee or expense  
8 item for which sufficient documentation is not available to determine whether the item was  
9 necessary and reasonable. Upon prior written Agreement by the County, Attorney may provide the  
10 documentation in digital electronic form in Adobe Portable Document Format (PDF) or in Alchemy  
11 format in lieu of the manual preservation requirements detailed above.  
12

13 **6. Payment terms:** Attorney's request for payments and reimbursements may be made in either  
14 the Attorney's name or the name of the Attorney's law firm, as appropriate. Attorney bills  
15 complying with this Agreement are due and payable upon receipt. If the bill materially fails to  
16 comply with the requirements of this Agreement, then it is not due and payable until its deficiencies  
17 are remedied by Attorney. County is entitled to a 1% prompt payment discount if a bill is paid  
18 within 15 days of receipt by County or correction of deficiencies by Attorney, whichever is later,  
19 (or if the bill is satisfied by funds held by Attorney, e.g., in a trust account). County shall not be  
20 liable for interest or other late charges unless specifically agreed to in advance in a writing signed  
21 by County.  
22

23 **7. Budgets.** Attorney will, within thirty (30) days after the effective date of this Agreement,  
24 prepare an estimate or budget of the likely costs, by task, of this matter, including fees and expenses,  
25 and a plan for handling the matter. Attorney will update the budget and plan at least once every  
26 three months. In the event that Attorney obtains information indicating that the budget (or any line  
27 item) may be exceeded by more than five percent, he or she will notify County of that immediately.  
28 In a written statement accompanying each bill, preferably in tabular form. Attorney will reconcile  
29 the budget with each month's bill, e.g., by explaining whether the billed amounts, by task, are more  
30 or less than the amounts budgeted therefore. County shall have the right not to pay any amounts that  
31 are over budget or not included within the budget.  
32

33 **8. Staffing and matter management.** Attorney has been retained specifically because  
34 Attorney, personally, is understood by County to be able to handle this matter. Employment of  
35 additional individuals, whether attorneys, paralegals, or others, who will bill time to County is not  
36 permitted without the advance written approval of County.  
37

38 **8.1. Time-keeper changes.** Changes in time-keepers, e.g., replacement of an attorney  
39 as well as increases or decreases in the number of the time-keepers working on the subject-matter  
40 of this Agreement, must have the advance written approval of County. County expects to receive  
41 discounts or other concessions so that any increases or changes in time-keepers will not result in  
42 unnecessary or unreasonable charges to County, e.g., for training, internal conferences, and  
43 management.  
44



1       **8.2. Duplication of effort.** Unless advance County approval is obtained, Attorney will  
2 not have more than one time-keeper bill for court appearances, attendance at depositions and  
3 meeting, including meetings with County representatives, and internal conferences. In the event that  
4 more than one person attends, only the time of the person with the lowest rate will be billable.  
5 Attorney is not permitted to use this matter to provide on the job training for a time-keeper, and bill  
6 for that time-keeper's services, without County's advance approval.  
7

8       **8.3. Matter management.** Attorney is responsible for managing the matter cost-  
9 effectively and competently, e.g., by insuring that additional time-keepers are competent, properly  
10 supervised, efficient, and in compliance with the terms of this Agreement as well as with ethical  
11 obligations.  
12

13       **8.4. Communications.** County will expect that all communications between Attorney  
14 and County will be reviewed by Attorney and that Attorney will serve as the point of contact for this  
15 matter, including billing questions. The point of contact for this matter at County is the County  
16 Attorney or the individual specifically identified in **Exhibit A**.  
17

18       **8.5. Case monitoring.** County will be advised promptly by Attorney of all significant  
19 facts and developments in the matter so that County may manage the matter effectively and make  
20 informed decisions about strategy, tactics, settlement, scheduling, costs, and other related matters.  
21 County will promptly receive from Attorney copies of all orders, opinions, pleadings, briefs,  
22 memoranda (internal and external), correspondence, and any other document material to the subject  
23 matter of this Agreement, such that the County will have a current, up-to-date, "mirror" copy of the  
24 County's file maintained by Attorney. For discovery materials or exhibits that are lengthy,  
25 Attorney should discuss them with County before providing a copy. Documents available in digital  
26 electronic/computerized form should be provided in that form in lieu of paper copies. Additionally,  
27 Attorney may be required to submit, on a monthly basis, a case status and progress report to be  
28 submitted to the Board of County Commissioners. The format of the report shall be in the form  
29 required by the County Attorney.  
30

31       **8.6. Case control.** Attorney shall discuss all significant issues of strategy and tactics,  
32 including motions, discovery, pleadings, briefs, trial preparation, experts, and settlement, with  
33 County before implementation. Attorney is expected to exercise independent professional judgment,  
34 but to implement the decisions of County as expressed to the County by the County Attorney.  
35

36       **8.7. Attorney cooperation.** Attorney will cooperate with County or County's  
37 representatives to promptly provide all information County requests or needs about the subject  
38 matter of this Agreement and Attorney's bills.  
39

40       **8.8. County cooperation.** Attorney should consult with County about all opportunities  
41 for County to save money or make use of County's expertise to assist in, e.g., responding to  
42 discovery, preparing for trial, locating experts, and the like. County may also have personnel and  
43 facilities available to reduce the expenses related to the subject matter of this Agreement.  
44



1           **8.9. Temporary staff, delegation, outsourcing.** Attorney will not bill County for the  
2 time and expenses of temporary employees, including so-called "Temps" or contract attorneys or  
3 other staff from outside companies, nor "outsource" or delegate work, nor charge for summer  
4 associates, law clerks, or student clerks, (collectively "temporary staff" even if not temporarily  
5 employed) without full advance disclosure of the employee's temporary or short-term status to  
6 County, including disclosure of the actual amount paid or to be paid to the individual. Unless  
7 County expressly agrees in writing to paying additional amounts after full disclosure by Attorney,  
8 Attorney may not charge County more than the actual cost paid by attorney.  
9

10           **9. Confidentiality and public relations:** Attorney is not authorized to waive or release any  
11 privilege or other protection of information – confidential, secret, or otherwise – obtained from or  
12 on behalf of County. Attorney is to keep all confidential, privileged, or secret information  
13 confidential. This requirement is perpetual, i.e., it will continue even after the termination of the  
14 relationship and this Agreement. This requirement is also intended to prohibit Attorney from using  
15 information obtained from or on behalf of County, including work product prepared at County's  
16 expense, for other client's of Attorney or his or her firm, without County's advance written approval.  
17 Attorney is not authorized to identify County as a County, e.g., for purposes of marketing or  
18 advertising, without County's prior approval. Upon termination of the representation, Attorney  
19 agrees to return promptly all information obtained from or on behalf of County to County. Attorney  
20 is not authorized to communicate with the public, including the press, about County or this matter  
21 without the advance approval of County.  
22

23           **10. Ownership of Attorney files and work product:** Attorney understands that all files and  
24 work product prepared by Attorney or his or her firm at the expense of County (or for which County  
25 is otherwise billed) is the property of County. Without County's prior written approval, this work  
26 product may not be used by Attorney or his or her firm nor disclosed by Attorney or his or her firm  
27 to others, except in the normal course of Attorney's representation of County in this matter.  
28 Attorney agrees that County owns all rights, including copyrights, to materials prepared by County  
29 or by Attorney on behalf of County. Attorney shall notify County in writing at least 60 days in  
30 advance of destroying any such records and, in the event that County requests that they be preserved,  
31 shall preserve them at least one additional year (with County responsible for paying the actual cost  
32 of storage). Attorney shall provide County with prompt access to (including the ability to make  
33 copies of) all attorney files and work product, regardless of whether the representation or matter is  
34 ongoing and whether attorney fees and expenses have been paid in full.  
35

36           **11. Dispute resolution:** Attorney and County agree that all disputes regarding Attorney's fees  
37 or expenses are to be resolved pursuant to the procedures and practices for mediation by the  
38 Attorney Consumer Assistance Program of the Florida Bar.  
39

40           **12. Governing law, modification of this Agreement, entire agreement:** This Agreement is  
41 to be interpreted in accordance with the laws of Florida and with the ethical requirements of that  
42 jurisdiction. The Agreement may not be modified in any way without the express, written agreement  
43 of both parties. This represents the entire agreement of the parties.  
44

45           **13. Monroe County Code Ethics Provisions:** This provision is found in Section 18.8 below.



1 **14. Time Keeper Defined:** As used in this Agreement, the term "time keeper" shall include  
2 Attorney and other attorneys and individuals identified in **Exhibit A** who will be providing services  
3 under this Agreement and who will bill the County for their services in accordance with this  
4 Agreement.  
5

6 **15. Methods of Approval and Consent By County:** Any consents or approvals required by this  
7 Agreement to be made by the County shall, unless the context expressly states otherwise, be made  
8 by the County Attorney or an authorized Assistant County Attorney in written form, to include but  
9 not limited to hand-written, typed, or printed notes, electronic mail, letters, or facsimile  
10 transmissions.  
11

12 **16. Florida Government-in-the-Sunshine Law:** Attorney agrees that, unless specifically  
13 exempted or excepted by Florida law, the provisions of Chapter 120, Florida Statutes, generally  
14 require full and public discussion of matters to be voted upon by the Board of County  
15 Commissioners. Attorney agrees to consult with the County Attorney's office concerning the  
16 application of the Sunshine law from time to time concerning specific circumstances that may arise  
17 during the term of this Agreement.  
18

19 **17. Florida Public Records Law:** Attorney agrees that, unless specifically exempted or  
20 excepted by Florida law or Rules and Regulations of The Florida Bar, the provisions of Chapter 119,  
21 Florida Statutes, generally require public access to all records and documents which may be made  
22 or received under this Agreement. Attorney agrees to consult with the County Attorney's office  
23 concerning the application of the Public Records Law from time to time concerning specific  
24 circumstances that may arise during the term of this Agreement.  
25

26 **18. County's Standard Contract Terms:**  
27

28 **18.1 No Assignments.** Without the prior written consent from the County, Attorney shall  
29 not assign or transfer this Agreement.  
30

31 **18.2 Entire Agreement.** The entire agreement between the County and Attorney with  
32 respect to the subject matter hereof is contained in this Agreement. This Agreement supersedes all  
33 prior oral and written proposals and communications between the County and Attorney related to  
34 this Agreement. No provision of this Agreement shall be deemed waived, amended or modified by  
35 either party unless such waiver, amendment or modification is in writing and signed by the party  
36 against whom the waiver, amendment or modification is claimed. This Agreement shall be binding  
37 upon and inure to the benefit of the parties hereto, their permitted successors and assigns.  
38

39 **18.3 Severability.** If a term, covenant, condition or provision of this Agreement shall be  
40 declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining  
41 terms, covenants, conditions and provisions of this Agreement shall not be affected thereby; and  
42 each remaining term, covenant, condition and provision of this Agreement shall be valid and shall  
43 be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms,  
44 covenants, conditions and provision of this Agreement would prevent the accomplishment of the  
45 original intent of this Agreement. The County and Attorney agree to reform the Agreement to



1 replace any stricken provision with a valid provision that comes as close as possible to the intent of  
2 the stricken provision.

3 **18.4 Captions.** The captions set forth herein are for convenience of reference only and shall  
4 not define, modify, or limit any of the terms hereof.  
5

6 **18.5 Governing Law and Venue.** This Agreement shall be governed by and construed in  
7 accordance with the laws of the State of Florida applicable to contracts made and to be performed  
8 entirely in the State. Venue for any legal action which may arise out of or under this agreement shall  
9 be in Monroe County, Florida.  
10

11 **18.5.1 Conflicts in interpretation.** The County and Attorney agree that, in the  
12 event of conflicting interpretations of the terms or a term of this Agreement by or between them, the  
13 final interpretation by the County shall apply.  
14

15 **18.5.2 Adjudication of Disputes and Disagreements.** The County and Attorney  
16 agree that all disputes and disagreements between them shall be attempted to be resolved by a meet  
17 and confer session between representatives of the County and Attorney. If the issue or issues are  
18 still not resolved to the satisfaction of both within 30 days after the meet and confer session, then  
19 either shall have the right to seek such relief as may be provided by this Agreement or by Florida  
20 law.  
21

22 **18.5.3 Cooperation.** In the event any administrative or legal proceeding is instituted  
23 against either the County or Attorney relating to the formation, execution, performance, or breach  
24 of this Agreement, the County and Attorney each agree to participate, to the extent required by the  
25 other, in all proceedings, hearings, processes, meetings, and other activities related to the substance  
26 of this Agreement. The County and Attorney each agree that neither shall be required to enter into  
27 any arbitration proceedings related to this Agreement or any Attachment or Addendum to this  
28 Agreement.  
29

30 **18.5.4 Legal Obligations and Responsibilities; Non-delegation of Constitutional**  
31 **or Statutory Duties.** This Agreement is not intended to relieve, nor shall it be construed as  
32 relieving, either the County or Attorney from any obligation or responsibility imposed upon each  
33 by law except to the extent of actual and timely performance thereof by the other, in which case the  
34 performance may be offered in satisfaction of the obligation or responsibility. Further this  
35 Agreement is not intended to authorize, nor shall it be construed as authorizing, the delegation of  
36 the constitutional or statutory duties of the County, except to the extent permitted by the Florida  
37 Constitution, state statutes, case law, and, specifically, the provisions of Chapter 125, Florida  
38 Statutes.  
39

40 **18.6 Attorney's Fees and Costs.** In the event any administrative proceeding or cause of  
41 action is initiated or defended by the County or Attorney relative to the enforcement or interpretation  
42 of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees,  
43 court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party,  
44 and shall include reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses  
45 in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement



1 or as may be required by a court of competent jurisdiction shall be conducted in accordance with  
2 the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit  
3 court of Monroe County.  
4

5 **18.7 Records.** Attorney shall maintain all books, records, and documents directly pertinent  
6 to performance under this Agreement, including the documents referred to in Sections 5.4 and 10  
7 of this Agreement, in accordance with generally accepted accounting principles, consistently  
8 applied. Upon ten (10) business days written notice to the other, representatives of either the County  
9 or Attorney shall have access, at all reasonable times, to all the other party's books, records,  
10 correspondence, instructions, receipts, vouchers and memoranda (excluding computer software)  
11 pertaining to work under this Agreement for the purpose of conducting a complete independent  
12 fiscal audit. Attorney shall retain all records required to be kept under this Agreement for a  
13 minimum of five years, and for at least four years after the termination of this agreement. Attorney  
14 shall keep such records as are necessary to document the performance of the agreement and  
15 expenses as incurred, and give access to these records at the request of the County, the State of  
16 Florida or authorized agents and representatives of said government bodies. It is the responsibility  
17 of Attorney to maintain appropriate records to insure a proper accounting of all collections and  
18 remittances. Attorney shall be responsible for repayment of any and all audit exceptions which are  
19 identified by the Auditor General for the State of Florida, the Clerk of Court for Monroe County,  
20 the Board of County Commissioners for Monroe County, or their agents and representatives.  
21

22 **18.7.1 Public Access.** The County and Attorney shall allow and permit reasonable  
23 access to and inspection of, all documents, papers, letters, or other materials subject to the Florida  
24 Public Records Law, as provided in Chapter 119, Florida Statutes, and made or received by the  
25 them, unless specifically exempted by State Statute, Rules and Regulations of The Florida Bar, or  
26 case law. County shall have the right to cancel this agreement upon violation of this provision by  
27 Attorney.  
28

29 **18.8 Monroe County Code Ethics Provision.** Attorney warrants that he has not  
30 employed, retained or otherwise had act on his behalf any former County officer or employee in  
31 violation of Section 2 of Ordinance No. 10-1990 or any County officer or employee in violation of  
32 Section 3 of Ordinance No. 10-1990. For breach or violation of this provision the County may, at  
33 its discretion, terminate this Agreement without liability and may also, at its discretion, deduct from  
34 the sums owed under the Agreement, or otherwise recover, the full amount of any fee, commission,  
35 percentage, gift, or consideration paid to the former or present County officer or employee. County  
36 employees and officers are required to comply with the standards of conduct delineated in Section  
37 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts, doing  
38 business with one's agency, unauthorized compensation, misuse of public position, conflicting  
39 employment or contractual relationship, and disclosure of certain information.  
40

41 **18.9 Authority.** Attorney warrants that he and the authorized time keepers are authorized  
42 by law and the Rules and Regulations of The Florida Bar to engage in the performance of the  
43 activities encompassed by this Agreement. If Attorney is a member of a law firm, either as partner,  
44 shareholder, associate, or other relationship, Attorney warrants that he is authorized to enter into this  
45 Agreement by Attorney's law firm.



1  
2       **18.10 Public Entity Crime Statement.** Florida law provides that person or affiliate who  
3 has been placed on the convicted vendor list following a conviction for public entity crime may not  
4 submit a bid on an agreement to provide any goods or services to a public entity, may not submit  
5 a bid on a agreement with a public entity for the construction or repair of a public building or public  
6 work, may not submit bids on leases of real property to public entity, may not be awarded or  
7 perform work as a contractor, supplier, sub-contractor, or consultant under a agreement with any  
8 public entity, and may not transact business with any public entity in excess of the threshold amount  
9 provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of  
10 being placed on the convicted vendor list. Attorney warrants the neither Attorney nor any  
11 authorized time keeper has been named to the convicted vendor list.  
12

13       **18.11 Anti-kickback.** Attorney warrants that no person has been employed or retained to  
14 solicit or secure this Agreement upon any contract or understanding for a commission, percentage,  
15 brokerage or contingent fee, and that no employee or officer of the County has any interest,  
16 financially or otherwise, in this Agreement, except as expressly stated herein. For breach or  
17 violation of this warranty, the County shall have the right to annul this agreement without liability  
18 or, in its discretion, to deduct any sums to be paid by County under this Agreement, or otherwise  
19 recover, the full amount of such commission, percentage, brokerage or contingent fee.  
20

21       **18.12 Modifications and Amendments.** Any and all modifications of the terms of this  
22 agreement shall only be amended in writing and executed by the Board of County Commissioners  
23 for Monroe County and by Attorney.  
24

25       **18.13 Independent Contractor.** At all times and for all purposes hereunder, Attorney is  
26 an independent contractor and not an employee of the Board of County Commissioners of Monroe  
27 County. No statement contained in this Agreement shall be construed so as to find Attorney or any  
28 of the authorized time keepers, to be the employees of the Board of County Commissioners of  
29 Monroe County, and they shall be entitled to none of the rights, privileges or benefits of employees  
30 of Monroe County.  
31

32       **18.14 Compliance with Law.** In carrying out Attorney's obligations under this agreement,  
33 Attorney shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the  
34 provisions of this Agreement, including those now in effect and hereafter adopted. Any violation  
35 of said statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement  
36 and shall entitle the County to terminate this Agreement immediately upon delivery of written notice  
37 of termination to Attorney.  
38

39       **18.15 Licensing and Permits.** Attorney warrants that Attorney shall have, prior to  
40 commencement of work under this agreement and at all times during said work, all required licenses  
41 and permits whether federal, state, County or City.  
42

43       **18.16 Non-Discrimination.** Attorney shall not discriminate, in its employment practices  
44 and in providing services hereunder, on the basis of race, color, sex, religion, disability, national  
45 origin, ancestry, sexual orientation, gender identity or expression, familial status, or age, and shall



1 abide by all federal and state laws regarding non-discrimination. Upon a determination by a court  
2 of competent jurisdiction that such discrimination has occurred, this Agreement automatically  
3 terminates without any further action by the County, effective the date of the court order. Attorney  
4 is aware of the provisions of Section 13-101 through 13-106, Monroe County Code, relating to non-  
5 discrimination, and agrees to abide by the Code's non-discrimination requirements.  
6

7 **18.17 Claims for State or Federal Aid.** The County and Attorney agree that each shall be,  
8 and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this  
9 Agreement, provided that all applications, requests, grant proposals, and funding solicitations by  
10 Attorney shall be approved by the County prior to submission.  
11

12 **18.18 Non-Reliance by Non-Parties.** No person or entity shall be entitled to rely upon the  
13 terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or  
14 entitlement to or benefit of any service or program contemplated hereunder, and the County and  
15 Attorney agree that neither the County nor Attorney or any officer, agent, or employee of each shall  
16 have the authority to inform, counsel, or otherwise indicate that any particular individual or group  
17 of individuals, entity or entities, have entitlements or benefits under this Agreement separate and  
18 apart, inferior to, or superior to the community in general or for the purposes contemplated under  
19 this Agreement.  
20

21 **18.19 Attestations.** Attorney agrees to execute such documents as the County may  
22 reasonable require, including a Drug-Free Workplace Statement, and a Public Entity Crime  
23 Statement.  
24

25 **18.20 Signatures of Parties Required.** This Agreement shall not be effective until  
26 executed by both County and Attorney and received in final executed form by an authorized  
27 representative of County.  
28

29 **18.21 County Authority.** This Agreement has been at a duly noticed and legally held  
30 public meeting conducted in Monroe County, Florida.  
31

32 **18.22 No Personal Liability.** No covenant or obligation contained in this Agreement shall  
33 be deemed to be a covenant or obligation of any member, officer, agent or employee of the Board  
34 Of County Commissioners of Monroe County in his or her individual capacity and no member,  
35 officer, agent or employee of the Board Of County Commissioners of Monroe County shall be liable  
36 personally on this Agreement or be subject to any personal liability or accountability by reason of  
37 the execution of this Agreement.  
38

39 **18.23 Execution in Counterparts.** This Agreement may be executed in any number of  
40 counterparts, each of which shall be regarded as an original, all of which taken together shall  
41 constitute one and the same instrument and the County and Attorney may execute this Agreement  
42 by signing any such counterpart.  
43



1       **THIS AGREEMENT** has been signed and executed by the Board of County Commissioners  
2 of Monroe County, Florida, and has been signed and executed by Attorney, on the dates indicated  
3 below.  
4

5                                   **BOARD OF COUNTY COMMISSIONERS**  
6                                   **OF MONROE COUNTY, FLORIDA**

7       **ATTEST:**

8  
9       **DANNY L. KOLHAGE, CLERK**

10                               **BY:** \_\_\_\_\_  
  **MAYOR CHARLES "SONNY" MCCOY**

11       **By:** \_\_\_\_\_  
12                               **Deputy Clerk**

13                               **Date:** \_\_\_\_\_

14       **Date:** \_\_\_\_\_  
15

16       **Witnesses For Attorney:**

17                               **ATTORNEY**

18  
19       \_\_\_\_\_  
20       Signature

21                               \_\_\_\_\_  
22       Signature

23       \_\_\_\_\_  
24       Printed Name

25                               \_\_\_\_\_  
26       **IRA L. LIBANOFF, ESQ.**

27       Printed Name

28       \_\_\_\_\_  
29       Signature

30                               \_\_\_\_\_  
                                  **150 S. Pine Island Rd**  
                                  Mailing Address **Suite 400**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
**Plantation FL 33324**  
City/State/ZIP

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

  
SUZANNE A. HUTTON

ASSISTANT COUNTY ATTORNEY

Date

**2/28/06**



**MONROE COUNTY, FLORIDA  
STANDARD LEGAL SERVICES AGREEMENT  
(LITIGATION)**

**AGREEMENT NUMBER:**  
CAY LIT 2005-06-02

**EXHIBIT A**

**Litigation Identification:** Tropex Construction Services, Inc. v. Monroe County, 2006-CA-44-P  
Re: Tavernier Fire Station Renovation Project

**References:**

3.2: Limitations to Scope of Representation: County Attorney's office shall serve as co-counsel.

3.4: County expectations and goals: Prompt, efficient, competent representation by Ira Libanoff as lead counsel.

4. : Attorney's Hourly Fee Rate:      Ira Libanoff \$250.00 per hour.  
   Janet Ritenbaugh \$225.00 per hour.  
   Lori Shapiro \$200.00 per hour.

4.4: Approved Additional Time Keepers: Paralegal \$85.00 per hour.

Name:

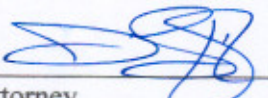
Hourly Rate:

8.4: County Point of Contact:

Robert B. Shillinger  
Assistant County Attorney  
P.O. Box 1026  
Key West, FL 33041-1026  
(305) 292-3470  
(305) 292-3516 (fax)  
Shillinger-Bob@monroecounty-fl.gov

Attorney

Date:

  
2-25-06

County Representative

Date: